

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 250 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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STERLING ABRASIVES LTD.

Versus

VIRAL LAMINATES LTD.  
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Appearance:

MR ANIP A GANDHI for Petitioner

MR AV TRIVEDI for Respondent No. 1  
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 19/11/1999

#### ORAL JUDGEMENT

Viral Laminates Ltd. (hereinafter referred to as "the respondent-Company") was engaged in the business of manufacturing laminated sheets. For the purpose of its manufacturing activity, the respondent-Company required certain plant and machineries and approached the petitioner-Sterling Abrasives Ltd. for supply of certain plant and machineries. The petitioner Company supplied certain machineries and the total amount outstanding against such supply of machineries as on 30.6.1999 was

for Rs.29,54,787-92 ps. The petitioner-Company served statutory notice dated 12.7.1999 calling upon the respondent-Company to pay the aforesaid amount. The respondent Company did not send any reply to the notice. Hence, the present petition came to be filed in August, 1999.

2. In response to the notice, affidavit in reply dated 18.9.1999 came to be filed by Nitin Shantilal Parikh, one of the Directors of the respondent Company stating that due to general crisis in the industry as well as labour problem, the respondent Company was incurring losses and, therefore, it was compelled to close down its manufacturing activities in April, 1996. It is also stated that all the workers of the respondent Company have been retrenched and have been paid their legal dues. There is no liability outstanding to any of the workers or to any of the financial institutions or to banks. It is further stated that upon closing down of its manufacturing activities, most of the machineries of the respondent-Company are also sold out. In short, though the respondent-Company has admitted the liability for the amount in question, it pleads its inability to pay the debts on the ground that it has closed down its business and has practically sold out all its machineries.

3. The petition was admitted on 22.9.1999 and the advertisements of notice of the petition have been published in Indian Express and Jansatta. It is stated by Mr AA Gandhi at the Bar that all the legal procedural formalities have been complied with.

4. Having heard Mr AA Gandhi for the petitioner and Mr V.C. Desai for the respondent-Company, in view of the fact that the respondent-Company has admitted its liability and has admittedly not made the payment to the petitioner-Company and further in view of the fact that the manufacturing activity of the respondent-Company came to be closed down in April, 1996, it is a clear case where the respondent Company has become liable to be wound up on the ground of inability to pay its debts and also on the ground that the Company has suspended its business for more than one year.

5. In view of the above discussion, the respondent-Company Viral Laminates Ltd. is ordered to be wound up.

The Official Liquidator attached with this Court will function as the Liquidator for this Company with all

powers under Section 437 of the Companies Act. He will proceed to do the inventory, valuation as also to post necessary security at the premises of the respondent-Company. The petitioner will deposit an amount of Rs.5,000/- to begin with, with the Official Liquidator.

(M.S. Shah, J.)

sundar/-